

### **REMARKS**

This Amendment is in response to the Final Office Action dated May 5, 2005 (the "Action"). Claims 1-11 and 13 were pending at the time of the Action. Claim 1 has been amended to recite the subject matter of Claim 2, and Claim 2 has been canceled. Claim 5 has been amended as required by the Action. Applicants appreciate the Examiner's indication that Claim 5 is allowed.

Applicants submit that the amendments introduce no new matter, raise no new issues, and do not necessitate an additional search.

Claims 1, 3-4, 6-9 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,161,648 to Widman ("Widman"). Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,185,161 to Tinnerman ("Tinnerman"). Claim 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Widman in view of Tinnerman.

In light of the above amendments and the remarks below, Applicants submit that Claims 1, 3-11 and 13 are in condition for allowance.

#### **I. Claims 1 and 3-11 are not anticipated by Widman**

Claim 1 recites that "the device is formed as a unitary member." The Action takes the position that **Figure 3** of Widman illustrates that the device is formed as a unitary member. Applicants respectfully disagree.

The Action identifies the weatherstripping **30**, loops **34**, and sealing flap **32** as equivalent to the device, the clip, and the cushioning projection as recited in Claim 1. *See* the Action, pages 2-3, paragraph 4. However, Widman discusses that the loops **34** are formed of a wire **33**. *See* Widman, page 1, col. 2, lines 42-48. Widman further states that the weatherstripping **30** is preferably composed of a vulcanized rubber composition and has the reinforcing wire **33** embedded therein. *See* Widman, page 1, col. 2, lines 39-42. Therefore, the weatherstripping **30** and the loops **34** are clearly two separate members, and are not "formed as a unitary member" as recited in Claim 1.

Moreover, Widman discusses that the loops **34** of the wire **33** are withdrawn through the base of the rectangular section body portion **31** of the weatherstripping **30** and spread adjacent the central portion thereof. The loops **34** are then severed to provide a spring clip or fastener. *See* Widman, page 1, col. 2, lines 43-52 and **Figure 2**. It is unclear how the loops **34** of the wire **33** could be withdrawn through the body portion **31** of the weatherstripping **30** to provide a clip if the wire loops **34** and weatherstripping **30** were formed as a unitary body member as alleged in the Action. Therefore, the functionality of the configuration in Widman would be destroyed if the wire loops **34** and weatherstripping **30** were formed as a unitary body member.

For at least these reasons, Applicants submit that Widman cannot anticipate the subject matter of Claims 1 and 3-11 depending therefrom under §102(b), and respectfully requests that this rejection be withdrawn.

## **II. Claim 13 is not obvious over Tinnerman**

The Action concedes that Tinnerman does not disclose the following recitation: “the base member having a planar portion extending away from the cushioning projection on opposite sides thereof” in Claim 13. However, the Action characterizes this feature as an “obvious design choice” and a “duplication of parts” and further states that no showing of criticality has been shown. *See*, the Action, page 5, paragraph 6.

The Action does not cite any legal support for requiring a showing of criticality. According to the MPEP, § 2144.04, VI., B., the duplication of parts is not patentable unless a new and unexpected result is produced. As shown in **Figures 1-11** of the current application, in some embodiments, a planar portion that extends away from the cushioning projection on opposite sides thereof facilitates mechanical attachment to a furniture component. In contrast, the rubber sealing strip **C** of Tinnerman, which the Action has identified as equivalent to the device recited in Claim 13, does not mechanically attach to the wall members **A,B** and appears to be attached with an adhesive. *See*, Tinnerman, **Figures 1** and **2**. Accordingly, the mechanical attachment of the claimed device in certain embodiments of the

In re: Marsh et al.  
Serial No.: 10/820,186  
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Page 7 of 7

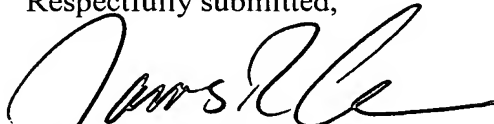
current invention is a result that would not be expected based on the teachings of Tinnerman, and there is no motivation to modify the rubber sealing strip C of Tinnerman.

For at least these reasons, Applicants submit that Claim 13 is not obvious in view of Tinnerman under §103(a), and respectfully requests that this rejection be withdrawn.

### **III. Conclusion**

In light of the above amendments and remarks, Applicant submits that the pending claims are in condition for allowance. Accordingly, Applicants respectfully request allowance of the present application and passing the application to issue.

Respectfully submitted,

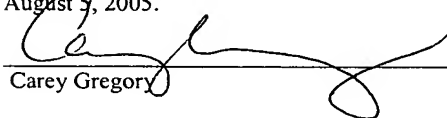


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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on August 9, 2005.



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